

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of:

Applicant(s) : Clinton W. Pike and David H. Nordmeyer
Serial No. : 10/088,291
Filed : March 14, 2002
Title : MASONRY MORTAR AND STUCCO CEMENT COMPOSITIONS
Docket : ASH 116 P2
Customer No. : 33805

Assistant Commissioner for Patents
P.O. Box 1450
Alexandria, VA 222313-1450

Sir: REQUEST FOR RECONSIDERATION

In reply to the Dismissal Without Prejudice of Applicant's Petition Under 37 CFR 1.47(a) mailed March 31, 2003, Applicant, David H. Nordmeyer, respectfully requests that the Dismissal be favorably reconsidered in view of the Renewed Petition Under 37 CFR 1.47(a) filed herewith. The Renewed Petition overcomes the only deficiency cited in the Dismissal by documenting the submission of the Application and Declaration of the above-identified application to co-inventor Clinton W. Pike, and the refusal to sign the Declaration by Clinton W. Pike. Accordingly, acceptance of the Renewed Petition filed herewith is respectfully requested.

06/03/2003 MKAYPAGH 00000118 10088291

01 FC:1460

130.00 OP

Respectfully submitted,

Date: 5/29/03

Bruce E. Peacock
Bruce E. Peacock
USPTO Registration No. 28,457

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of:

Applicant(s) : Clinton W. Pike and David H. Nordmeyer
Serial No. : 10/088,291
Filed : March 14, 2002
Title : MASONRY MORTAR AND STUCCO CEMENT COMPOSITIONS
Docket : ASH 116 P2

Assistant Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

RENEWED PETITION UNDER 37 CFR 1.47(a)

This Renewed Petition is being filed under 37 CFR 1.47(a) by the undersigned on behalf of David H. Nordmeyer (hereinafter "Mr. Nordmeyer") to establish the refusal of joint inventor, Clinton W. Pike (hereinafter "Mr. Pike"), to join in the above referenced application for patent after repeated submission of the Application and Declaration to Mr. Pike, and in response to the March 31, 2003 Dismissal of an earlier filed Petition Under 37 CFR 1.47(a) submitted by the Applicant. The required fee also accompanies this Renewed Petition.

By way of background, Mr. Pike is a former employee of ISG Resources, Inc. (hereinafter ISG). It is noted that ISG is the current assignee of the above referenced application (See Exhibit A – assignments from both of Messrs. Nordmeyer and Pike to ISG). During Mr. Pike's employment with ISG, he jointly developed the idea for the above referenced invention with Mr. Nordmeyer. Upon Mr. Pike's departure from ISG, it was believed that he resided at 12707 Secret Forest Court, Cypress, Texas, 77429 as that was the residence address he attested to on October 14, 1999, when he executed the Assignment document (recorded at Reel 013141, Frame 0539) assigning rights in this patent application to ISG. We later learned that Mr. Pike's residence address became

15611 Stablebrook Circle, Cypress, Texas 77429, which is Mr. Pike's last known address.

It is further noted that the above referenced patent application claims priority benefit of International PCT application PCT/US00/25907 filed September 21, 2000, and U.S. Provisional Application Serial No. 60/155,861 filed September 24, 1999. The published PCT application was filed upon entry into the U.S. national stage. Accordingly, the following attempts were made to obtain Mr. Pike's signature on a Declaration with respect to the above referenced invention.

The first attempt at reaching Mr. Pike to obtain his signature was by letter dated March 12, 2002 (Exhibit B). The letter was sent to 12707 Secret Forest Court, Cypress, Texas, 77429 by certified mail return receipt requested and included an unsigned Declaration. The letter requested execution of the Declaration so that it could accompany a filing of the application with the United States Patent & Trademark Office (hereinafter "USPTO"). No return receipt or executed Declaration was received from Mr. Pike in lieu of this first letter.

A second attempt at obtaining Mr. Pike's signature was made by letter dated May 29, 2002 (Exhibit C). The letter again was sent to 12707 Secret Forest Court, Cypress, Texas, 77429 by certified mail return receipt requested and included an unsigned Declaration. The letter similarly requested execution of the Declaration so that it could be filed with the USPTO. A signed return receipt card was received with a date of delivery of June 3, 2002, but an executed Declaration was not provided from Mr. Pike.

At or about June 2002, Mr. Pike sent an email to the undersigned explaining why he, Pike, would not sign the declaration. The undersigned has moved to a different firm in another city in the interim and does not have a copy of the e-mail. Mr. Pike has been requested to try to locate that e-mail so that it may be forwarded to the USPTO. The undersigned recalls that the e-mail indicated Mr. Pike's refusal in light of a then perceived conflict between his duties for his new employer and those of the instant assignee.

A third attempt at obtaining Mr. Pike's signature was made by letter dated April 22, 2003 (Exhibit D). This third attempt sent the letter to 15611 Stablebrook

Circle, Cypress, Texas, 77429 by certified mail return receipt requested and included an unsigned Declaration and the Application as filed for the US National Phase filing, which is consistent with the published PCT application that Mr. Pike was familiar with. The letter similarly requested execution of the Declaration so that it could be filed with the USPTO. A return receipt card signed by Ms. Sandi Pike, presumably Mr. Pike's spouse, was received with a delivery date of April 24, 2003, but an executed Declaration from Mr. Pike was not provided.


A fourth attempt at obtaining Mr. Pike's signature was made by letter dated May 13, 2003 (Exhibit E). This fourth attempt sent the letter by Federal Express to 15611 Stablebrook Circle, Cypress, Texas, 77429 and included an unsigned Declaration and the Application as filed for the US National Phase filing. The letter similarly requested execution of the Declaration so that it could be filed with the USPTO, and reminded Mr. Pike of his obligation to sign all papers and oaths in connection with this application as a result of the Assignment document (Reel 013141, Frame 0539). (Exhibit A). The Federal Express package was successfully delivered to Mr. Pike on May 15, 2003 as indicated on the Federal Express email receipt (Exhibit F) dated May 15, 2003. In response to this fourth attempt, Mr. Pike faxed a letter dated May 15, 2003 (Exhibit G) refusing to sign the Declaration for the reasons cited therein and requesting that ISG provide additional compensation to Mr. Pike in exchange for his cooperation. Mr. Pike forwarded an e-mail to the undersigned to make sure that his May 15, 2003 letter had been received. A copy of this e-mail and response thereto is attached as Exhibit H.

Despite repeated efforts to obtain Mr. Pike's signature, Mr. Pike refuses to sign the Declaration.

In light of the above, the undersigned, on behalf of Mr. Nordmeyer, accordingly is requesting that the USPTO accept under 37 CFR 1.47(a) this petition and enclosed fee to complete the requirements for acceptance of the above referenced application under 35 U.S.C. 371.

As indicated above, it is believed that the last known address for Mr. Pike is 15611 Stablebrook Circle, Cypress, Texas, 77429 and his e-mail address is shown in Exhibit H.

Respectfully submitted,
WEGMAN, HESSLER & VANDERBURG

By 
Bruce E. Peacock
Reg. No. 28,457

Attachments:

Exhibit A
Exhibit B
Exhibit C
Exhibit D
Exhibit E
Exhibit F
Exhibit G
Exhibit H